NOT DESIGNATED FOR PUBLICATION

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR08-210

EARNEST CHAMBLISS APPELLANT	**Opinion Delivered** October 1, 2008
V.	APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, [CR2007-163, CR2007-177]
STATE OF ARKANSAS APPELLEE	HONORABLE BARRY SIMS, JUDGE
	AFFIRMED

DAVID M. GLOVER, Judge

Earnest Chambliss was convicted by a Pulaski County jury of two counts of aggravated robbery and two counts of theft of property in connection with the robberies of two Metropolitan National Bank branches on November 20 and 22, 2006. He was sentenced to fifteen years in prison on each aggravated-robbery conviction and five years on each theft-of-property conviction; each of the four sentences was enhanced by four years for employing a firearm during the commission of the offenses. The trial court ordered the sentences to be served consecutively, for a total of fifty-six years. Chambliss does not argue that there was insufficient evidence to support the verdicts. His only point on appeal concerns an evidentiary issue. He contends that the trial court erred in denying a hearsay objection made during the testimony of State's witness Muriel Redden. We affirm Chambliss's convictions.

Trial courts have broad discretion in deciding evidentiary issues, and those decisions will not be reversed absent an abuse of discretion. *Jones v. State*, 340 Ark. 390, 10 S.W.3d 449

(2000). An appellate court will also not reverse a trial court's evidentiary ruling absent a showing of prejudice. *McCoy v. State*, 354 Ark. 322, 325, 123 S.W.3d 901, 903 (2003).

Hearsay is "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Ark. R. Evid. 801(c) (2008). Hearsay is not admissible except as provided by law or the Rules of Evidence. Ark. R. Evid. 802 (2008). A statement is not hearsay if it is offered against a party and is his own statement, in either his individual or a representative capacity, or a statement by a person authorized by him to make a statement concerning the subject. Ark. R. Evid. 801(d)(2)(i) & (iii) (2008). A declarant's statement is also not hearsay if the declarant testifies at trial and is subject to cross-examination concerning the statement, and the statement is consistent with his testimony and is offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive. Ark. R. Evid. 801(d)(1)(ii) (2008). If there is an express or implied charge of a witness fabricating a statement being made under oath, it is not hearsay to show that the same statement was made before the motive for fabrication came into existence; however, the prior consistent statement must be made before a motive for falsification has arisen or before the witness could foresee its effects upon the fact issue. *Beavers v. State*, 345 Ark. 291, 46 S.W.3d 532 (2001).

Here, one of the State's witnesses, Brandon Haymon, testified that he worked with Chambliss at Dixie Café; that on Monday, November 20, 2006, Chambliss came to work late and was very excited; that when Haymon asked what was going on, Chambliss told him that he had been "hitting licks." Chambliss initially told Haymon that he had robbed a check-

cashing establishment, but he then changed his story and told Haymon that he had robbed a bank. Haymon said that Chambliss asked him if he was "straight on money," and that Chambliss gave him a fifty-dollar bill that day. Haymon said that when he went home that Monday night after work, he saw the news about the bank robbery and recognized Chambliss from video footage.

Haymon testified that on Wednesday, November 22, 2006, he heard about the second bank robbery on the news and again recognized Chambliss from the video footage. Haymon said that he told his mother, Muriel Redden, Haymon's and Chambliss's manager at Dixie Café, that Chambliss might not show up for work because he might be on the run from robbing two banks, and that his mother made him call the police and tell them what he knew. Haymon admitted that he received $500 from Crimestoppers after he made his report to the police, but he denied that he was trying to frame Chambliss for the bank robberies.

On cross-examination, Haymon denied that he told another co-worker that he wanted money from Chambliss to keep his mouth shut and that, if he could not get that money, that he wanted a reward. Haymon testified that Chambliss did not owe him money on November 20, but gave him fifty dollars, even though Chambliss did not normally lend him money. Defense counsel questioned whether Haymon was being "a little greedy" when he first asked Chambliss for $200 but took fifty dollars when Chambliss offered it. Haymon denied that he was being greedy in taking the money, stating that Chambliss offered it to him.

In response to defense counsel's attempt to discredit Haymon's testimony that he identified Chambliss as the bank robber by showing he took fifty dollars from Chambliss and

had "greedily" asked for $200, the State called Haymon's mother, Muriel Redden, as a witness. Redden testified that Haymon had told her on November 22 that Chambliss was not going to be at work that day, and defense counsel objected to those statements as hearsay. The State countered that there was an express or implied charge that Haymon had fabricated the statements, and that Redden's testimony was to show that Haymon's statements were consistent. The trial court overruled the objection. Redden then testified that Haymon told her that Chambliss was not going to be at work that day because he had robbed a bank, and that she told Haymon he had to call the police because it was the right thing to do. Redden denied that either she or Haymon knew anything about a reward prior to calling the police.

On appeal, Chambliss argues that despite Haymon's denial that he knew nothing about a reward for information regarding the November 20, 2006 bank robbery, Haymon "must have known about at least the possibility of a reward immediately after [Chambliss] admitted to him on November 20, 2006 that he had robbed a bank earlier that day. Knowledge of the possibility of a reward for information about the November 20, 2006 bank robbery would provide a motive for Haymon to implicate [Chambliss]." This argument is speculative, and it ignores the testimony of Haymon and Redden that neither of them were aware of any available reward prior to calling the police. We hold that the trial court did not err in allowing Redden's testimony as non-hearsay under Ark. R. Evid. 801(d)(1)(ii).

Even if the trial court had erroneously allowed Redden's testimony into evidence, Chambliss cannot prove that he was prejudiced by it. Haymon's testimony regarding the fact that Chambliss told him that he had robbed a bank had already come into evidence. An

appellate court will not reverse a trial court's evidentiary ruling absent a showing of prejudice. *McCoy v. State, supra.* Furthermore, any error would be harmless, as there was an abundance of evidence that supported Chambliss's convictions, including several witness identifications of Chambliss as one of the bank robbers.

Affirmed.

VAUGHT and BAKER, JJ., agree.